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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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CONTENTS

House Week in Review.....2

Summary of Budget Highlights.....3

Bills Introduced.....8

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Legislative Update, March 15, 1994

House Week in Review

The House spent this past week deliberating H. 4820, the \$3.9 billion general appropriation bill (state budget) for Fiscal Year 1994-1995. After 4 long days of debate, the House voted 80-25 in the early hours of Friday, March 11 to give the bill second reading. Upon returning to work on Tuesday, March 15, the House, by special order, will take up H. 4821, a joint resolution to appropriate special monies from the Capital Reserve Fund for Fiscal Year 1993-1994, followed by H. 4822, a joint resolution to make supplemental appropriations from fiscal year 1993-1994 surplus revenues. After taking up those two special orders, the House will resume debate on H. 4633, a bill introduced by House Ways and Means Committee Chairman Billy Boan to phase out residential school operating taxes and to cap local government spending increases. Third reading of the budget bill will be given once H. 4633 has been voted upon by the House.

A summary of some of the highlights from H. 4820, the general appropriation bill, can be found beginning on page 3 of this Update.

Legislative Update, March 15, 1994

Summary of Budget Highlights

On this page and the pages thereafter following can be found some of the highlights of H. 4820, the General Appropriation Bill for Fiscal Year 1994-1995, which as mentioned earlier was given second reading on Friday, March 11.

---Requires driver's licenses to be renewed every 5 years, instead of every 4 years, with the cost of renewal increasing from \$10.00 to \$12.50. The fee to replace a lost driver's license increases from 50 cents to \$3.00.

---Revises eligibility requirements for dealer license plates. Under current law, dealers selling more than 10 but less than 50 vehicles a year may obtain one dealer plate at the cost of \$300, while dealers selling 50 or more vehicles may obtain one plate for every 20 vehicles sold, at a cost of \$20 each. Under this proviso, the \$300 fee for dealer plates for dealers selling under 50 vehicles is eliminated, and dealers selling 20 vehicles a year may purchase 2 plates and purchase one additional plate for every 15 vehicles sold beyond the initial 20, meaning for example, that a dealer selling 35 vehicles could obtain 3 license plates, while a dealer selling 50 vehicles could obtain 4 license plates. The cost for these dealer plates, regardless of the number acquired, is \$20 each. Also allows dealer plates to be used on vehicles loaned for test driving purposes to a dealer and allows 2 dealer plates to be issued to a person who operates an automobile graveyard. Also revises the definition of "heavy duty trucks" as pertains to dealer plate eligibility to provide that a heavy duty truck is one having a gross vehicle weight of 16,000 pounds or greater.

---Allows motor vehicle dealers or wholesalers to use transporter license plates to transport vehicles to and from a place of sale, to a place of repair for repair purposes between 7am and 8pm, and to road test the repaired vehicle or truck within a 5-mile radius of the repair facility also within those same hours.

---Requires at least 50 percent of a county's apportionment of gas tax monies under the "C" Funds Program to be applied to the state highway system, while up to 50 percent of these monies may be used for local paving and improvements.

Legislative Update, March 15, 1994

---Provides a 2 percent "across the board" pay raise and a 1.6 percent merit pay raise for state employees.

---Repeals the State's Mandatory Vehicle Inspection Law.

---Prohibits the Department of Revenue and Taxation from licensing video poker games which are located or intended to be located on watercraft or vessels plying on South Carolina's territorial waters.

---Allows employees, retirees and their eligible dependents of municipalities and special purpose districts which provide recreation service to obtain coverage under the state health and dental insurance plans.

---Amends the definition of "Index of Taxpaying Ability", for purposes of the Education Finance Act, to mean the index of a district's relative fiscal capacity (in relation to other districts in the state) based on the full market value of all taxable property of the district assessed on the basis of property classification assessment ratios for the most recent instead of the second, completed taxable year preceding the fiscal year in which the index is used. Also requires a district's index of taxpaying ability to be adjusted to reflect the true market value for a manufacturing facility that is closing or has closed in the current year, if that facility represented more than 2 percent of the total local revenue for that district.

---Allows an officer in charge of a detention facility (local jail or state correctional facility) to set criteria for deduction from an inmate's accounts to repay costs of public property wilfully destroyed by inmate during incarceration; medical treatment for injuries inflicted by inmate on himself or others; searching for and apprehending the inmate when he escapes or attempts to escape; or quelling a riot or other disturbance in which an inmate is unlawfully involved. Additionally, deductions may be made from inmate's accounts to defray the costs paid by a municipality or county for an inmate's medical treatment, when the inmate requests treatment, provided the deduction does not exceed \$5.00 for each occurrence of treatment received by the inmate at his request.

---Prohibits the Department of Corrections from using state funds to maintain or operate weight rooms for recreational use by inmates incarcerated in the department's facilities, and also prohibits the use of state funds to purchase or maintain equipment or for personnel for these purposes beyond equipment/personnel currently in inventory.

---Prescribes criminal and civil penalties for insurance fraud, with the crime being a misdemeanor upon first offense and a felony for a second or subsequent violation. Also establishes an Insurance Fraud Division within the Attorney General's office to prosecute insurance fraud and requires the State Law Enforcement Division to investigate cases of alleged insurance fraud.

Legislative Update, March 15, 1994

---Prohibits state-supported colleges and universities, including technical colleges, from increasing tuition and fees charged to in-state undergraduate students until the institutions recapture and maintain 100 percent of the total education and general cost for out-of-state undergraduate students. Beginning this July, the Commission on Higher Education would reduce the subsidy for out-of-state undergraduate students by 5 percent each year until the state subsidy is at 25 percent of total education and general cost.

---Establishes within the Medical University of South Carolina the Diabetes Initiative of South Carolina Board, the purpose of which is to establish a statewide program of education, surveillance, clinical research, and translation of new diabetes treatment methods to serve the needs of South Carolinians with diabetes. Also establishes a Diabetes Center for Excellence at the Medical University of South Carolina and at the University of South Carolina. These centers would develop and implement programs of professional education, specialized care and clinical research in diabetes and its complications.

---Requires the Department of Health and Environmental Control to establish an Infectious Waste Program Fund to ensure adequate funding to carry out its responsibilities under the State's Infectious Waste Management Act. Revenue for this fund would be derived from fees imposed on the treatment of infectious waste in South Carolina, with an amount equal to \$8/ton from those fees deposited into this new Fund. Also eliminates the differential charged for treatment of infectious waste generated outside South Carolina (currently \$30/ton for infectious waste generated outside the state, compared to \$25/ton for waste generated within South Carolina), so that the fee imposed on all infectious waste treated in the state is \$25/ton. Provides that any infectious waste treatment fees remaining after funding of the Infectious Waste Program Fund must be allotted to the Infectious Waste Contingency Fund.

---Requires local school districts receiving funding under the Appropriation Act to provide for a moment of silent prayer each day. Districts failing to do so would be ineligible for funding provided in the act for higher order thinking skills.

---Authorizes the State Budget and Control Board to issue a maximum of \$15 million of general obligation debt of the State, in form of a promissory note, to be applied to upcoming repairs and renovations of the State House.

---Requires each public water supply to pay the Department of Health and Environmental Control a user fee not exceeding 50 cents a month for each service connection, based upon the number of service connections in use of July 1 of the state fiscal year in which the user fee is to be paid. This fee would enable the Department to ensure compliance with tougher drinking water standards under the amended Federal Safe Drinking Water Act.

Legislative Update, March 15, 1994

---Allows a person purchasing a retail business which sells beer or wine from a holder of a retail permit to sell beer or wine at the business to be issued a temporary retail beer or wine permit by the Department of Revenue and Taxation at the time of purchase of the location, under certain circumstances (e.g., criminal background check, etc.).

---Increases the size of the Legislative Audit Council from 3 to 5 members and requires one of the members to be an attorney. Also deletes the Speaker of the House and Lieutenant Governor as ex-officio members of the Council and deletes provisions prohibiting ex-officio members from voting on matters pertaining to auditing functions and personnel matters. Reduces the size of the nominating committee (responsible for nominating council members) from 7 to 6 members and requires 3 of the committee members be appointed by the President of the Senate and 3 to be appointed by the Speaker of the House. (Currently, of the 7 members of the nominating committee, 2 are appointed by the governor; 2 are elected by the Senate; 2 are elected by the House, and one is appointed by the State Board of Accountancy). Requires the director of the Council, when a vacancy occurs on the Council, to immediately notify the Speaker and the Senate President and also requires that if the General Assembly is in session at the time notice is given, a nominating committee must be appointed within 15 days of the notification, and the election must be held within 45 days of notification and no later than sine die adjournment of the General Assembly.

---Prohibits a state agency or instrumentality of the State (except for local political subdivisions, special purpose districts and special taxing districts) from entering into a settlement of any litigation, dispute or claim over \$100,000 requiring the expenditure of monies appropriated or provided for in a general or supplemental appropriations act, or from any other source of public funds, without prior written approval from the Budget and Control Board. This is intended to prevent state agencies or instrumentalities from entering into settlements that can bind and commit the State to unreasonable funding requirements from current or future revenues of the State. However, in keeping with this intent, the Budget and Control Board may, in its discretion, exempt any entity or specific legislation matter from this requirement.

---Prohibits a deputy director, deputy commissioner or deputy division director of a state agency from being dually employed by another state agency or institution of higher education without prior approval by the Agency Head Salary Commission and the Budget and Control Board. This restriction applies to dual employment entered into after June of 1994.

---Authorizes the State Law Enforcement Division to charge a witness fee of \$100/hour, up to \$400/day, for each criminalist testifying in civil matters which do not involve the State as a part in interest. This fee must be charged in addition to any court-prescribed payment due as compensation or reimbursement for judicial appearances and deposited in a designated revenue account.

Legislative Update, March 15, 1994

---Revises Income Tax Withholding Requirements for persons, firms, corporations and other entities which do business or have income/employees in this state. For example, requires firms, etc. to withhold 7 percent of the total amount of payments of \$1,200 or more, instead of \$800 or more, made yearly to a nonresident of rentals or royalties for the use or privilege of using property in South Carolina, and lowers the withholding rate from 6 percent to 5 percent if the rental/ royalty payments are made to a corporation. Also allows firms, etc. required to withhold for these royalty/rental payments or for contracts of \$10,000 or more with nonresident taxpayers performing temporary services within South Carolina to obtain withholding exemption by registering with the Secretary of State or the Department of Revenue and Taxation.

---Requires the State Auditor and the State Chief Economist to jointly contract for an independent study to examine sales tax exemptions, including items subject to a maximum tax. The study must report whether or not these items are meaningful exemptions that provide for a positive economic impact on the state, fair and competitive, but not excessive, economic incentives for businesses competing in a global economy.

---Lists new provisions for the collection and distribution of court fees, fines and penalties. Adds assessments to fines imposed on persons convicted of offenses tried in general sessions court, family court, magistrate court or municipal court.

Legislative Update, March 15, 1994

Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced in the House are featured here. The bill summaries are arranged according to the committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Appointment of Additional Commissioners to Governing Boards of Soil and Water Conservation Districts (H. 4892, Rep. McLeod). Under current law, the governing body of a soil and water conservation district consists of 5 commissioners, with 3 commissioners elected by popular vote and 2 commissioners appointed by the State Land Resources Commission (known as the Department of Natural Resources after June of 1994). This bill would expand the maximum size of the governing body of a soil and water conservation district to 7 members by authorizing the Department of Natural Resources to appoint a maximum of 2 additional commissioners to that governing body, provided these additional appointments are requested by the governing body of the district. The terms of these additional commissioners would be for 4 years.

Education and Public Works

No Charge for Special License Plate for National Guard Members in Years When Only a Plate Revalidation Sticker is Issued (H. 4902, Rep. Graham). This bill requires a revalidation sticker to be issued and affixed to a special license plate for a National Guard member in years when the metal plate is not issued and waives the special license fee for these plates in years when only the revalidation sticker is used.

Judiciary

Applicants for License to Engage in Staff Leasing Services Must Be Fingerprinted (H. 4885, Rep. M.O. Alexander). Current law requires the Department of Consumer Affairs to conduct a background investigation of each applicant and his controlling person to determine whether the

Legislative Update, March 15, 1994

applicant or controlling person is qualified to hold a staff leasing services license. This bill would require the investigation to include fingerprinting of the applicant and the controlled person. The bill also requires, instead of merely allowing, the background investigation to include the submission of fingerprints for processing through appropriate local, state and federal law enforcement agencies and provides that in conducting the background investigation, the Department is to examine law enforcement records maintained by local, state or federal law enforcement agencies only if necessary.

Process by Which Candidate for Lieutenant Governor is Selected (H. 4887, Rep. Hodges). This bill provides for the selection of a party's nominee for lieutenant governor under a proposed voting procedure in which a party's nominees for governor and lieutenant governor would run as a single unit or on a "ticket" (i.e., voters no longer would be allowed to cast separate votes for governor and lieutenant governor). Under these provisions, a party's candidate for governor, whether nominated by party primary or party convention, must select the party's nominee for lieutenant governor. The nominee for lieutenant governor then must be ratified by a majority vote of the following individuals voting as a group--(1) members of the Congressional delegation representing that party; (2) statewide-elected constitutional officers representing that party; and (3) the party's executive committee. If the group rejects the nominee, then the gubernatorial nominee must submit to the group another nominee for lieutenant governor. The persons nominated by the party for governor and lieutenant governor would then form a single candidacy, running as a single unit or ticket in the General Election. The bill also provides that a person submitting a nominating petition for either governor or lieutenant governor must include nominees for both offices, who also must run as joint candidates.

These provisions would be effective upon ratification of a constitutional amendment (summarized below in H. 4888) requiring the governor and lieutenant governor to be jointly elected.

Joint Election of Governor and Lieutenant Governor (H. 4888, Rep. Hodges). Currently in South Carolina, persons cast separate votes for governor and lieutenant governor, making it possible for the governor and lieutenant governor to be from separate political parties, as currently is the situation today. If this proposed constitutional amendment is adopted, however, candidates for governor and lieutenant governor would be elected jointly, just as is done at the national level for president and vice president. A person would cast only a single vote for a candidate for governor and a candidate for lieutenant governor running together, instead of casting separate votes for each office. The person receiving his party's nomination for governor would select a person to be the nominee of that party for lieutenant governor. The General Assembly would provide by law (as summarized in H. 4887) the manner in which a party's nominee for lieutenant governor is selected.

Legislative Update, March 15, 1994

Employers Who Discharge or Demote Employees Who Have Instituted a Workers' Compensation Proceeding Are Liable for Punitive Damages (H. 4890, Rep. Cromer). Under current law, an employer who discharges or demotes an employee because the employee has instituted or testified in a proceeding under the State's Workers' Compensation Law is liable in a civil action for lost wages suffered by an employee because of the employer's action. This bill also would allow the discharged or demoted employee to recover punitive damages from the employer.

Expansion of Circumstances Under Which Liens for Repair or Storage May Occur (H. 4898, Rep. Sharpe). This bill allows a lien to be placed on property stored at a shop for reasons other than repairs or pursuant to a storage contract and which has not been reclaimed. This property may be sold at public auction after written notice has been mailed to the property owner and to any recorded lienholder with a perfected security interest in the property that the property is in storage there and that charges for repairs, materials, storage, recoupment of fees incurred to determine ownership or lienholders and their notice, or other accrued charges are due. This notice must be sent by certified mail to the last known address, and if the notice is returned by the post office, the attempt to notify constitutes notice. Also under these provisions, a lienholder's liability for storage is only for those storage charges occurring after the day written notice is mailed to the lienholder. If the identity of the owner or lienholder cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property is stored is sufficient to meet the notice requirements. The notice by publication may contain multiple listings of unclaimed property, must describe the property, list the storage location address, and must be published at least 10 days before the property sale.

The bill also provides that the purchaser takes possession and title to property under these provisions free of any and all previous liens and requires the public auction for the property to be scheduled at a time convenient to the magistrate conducting the auction and at the location where the property is stored. The bill also allows a county magistrate to sell an unclaimed, abandoned vehicle pursuant to these provisions and provides that only the agency actually holding the sale is entitled to reimbursement of costs incurred. Additionally, provisions exempting lienholders and owners in certain circumstances from penalties for abandoned vehicles do not exempt the owner or lienholder from liability for towing and storage costs when a vehicle is recovered.

Toad-Smoking Prohibited (H. 4899, Rep. P. Harris). This bill prohibits anyone from licking, kissing or biting a cane toad or from engaging in the act of "toad-smoking." Violation of this prohibition is a misdemeanor, punishable by 30 days' community service at the Aquarium and Reptile Complex at Riverbanks Zoo in Columbia. The bill provides that this prohibition does not apply to members of the toad family, "who may continue to smoke, bite, lick and kiss each other at will."

Legislative Update, March 15, 1994

Deletion of Provisions Entitling a Person to Vote Only in His Precinct of Residence (H. 4904, Rep. J. Wilder). This proposed constitutional amendment deletes requirements that (1) a registered voter can vote only in the precinct of his residence and (2) a registered voter who has moved his place of residence within the State during the 30 days immediately prior to any election is entitled to vote in his previous precinct of residence for that election only.

Implementation of Federal "Motor Voter" Law (H. 4905, Rep. J. Wilder). Last year, Congress passed, and the president signed, the National Voter Registration Act of 1993 (better known as the "Motor-Voter Law"), an act designed to promote voter registration nationwide by making it easier for persons to register to vote. The purpose of H. 4905 is to comply with the provisions of the new federal law.

The bill designates the following departments and other entities as agencies as voter registration agencies (places at which voter registration activities are to be conducted) (1) Dept. of Social Services; (2) Dept. of Health and Environmental Control--WIC program; (3) Dept. of Alcohol and Other Drug Abuse; (4) Dept. of Disabilities and Special Needs; (5) Dept. of Mental Health; (6) Commission for the Blind; (7) Dept. of Vocational Rehabilitation; (8) Wil Lou Gray Opportunity School; (9) South Carolina Protection and Advocacy System for the Handicapped; (10) Municipal Clerks; and (11) Armed Forces recruiting offices. Voter registration forms are to be distributed at these agencies, and completed forms are to be accepted for transmittal to the county board of voter registration. If any of these voter registration agencies provides services to a person with disabilities at the person's home, then the agency must provide these voter registration services at the person's home. No person providing voter registration services at these agencies may seek to influence an applicant's political preference, display a political preference or party allegiance, or lead the applicant to believe that a decision to register to vote has any bearing on the availability of services or benefits.

A voter registration agency which is an office providing service or assistance in addition to conducting voter registration would provide to persons seeking these services or renewal of services a voter application form. Information pertaining to a person's declination to register to vote at an agency providing services may not be used for any other purpose other than voter registration.

This bill also provides that each driver's license application, including renewal applications, submitted to the Division of Motor Vehicles serves as an application for voter registration, unless the applicant does not sign the voter registration form. Failure to sign the voter registration portion of the driver's license application serves as a refusal to register. An application for voter registration submitted to DMV is considered to update any previous voter registration by the applicant, and information relating to the failure of the applicant for a

Legislative Update, March 15, 1994

license to sign the voter registration application may be used only for voter registration purposes.

The bill lists conditions under which the State Election Commission may remove the name of a registered voter from the official list of eligible voters, requires the Commission to inform applicants to register to vote of voter eligibility requirements and penalties provided by law for submission of a false voter registration application, and also requires the commission, at least 90 days before a state primary or general election, to complete a program to systematically remove the names of ineligible voters from the official lists of eligible voters. The commission also is responsible for furnishing voter registration applications to these agencies.

The bill also requires the executive director of the State Election Commission to maintain a master file, instead of a roster, of all registered voters by county and precinct; delete the names of registered voters who request in writing to be removed from the voter rolls; enter names on the master file as reported by county registration boards; secure from state agencies available information as to persons convicted of disqualifying crimes; and serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the Federal Motor Voter Act.

The bill also provides that completed voter registration forms are exempt from disclosure under the Freedom of Information Act.

Ejectment of Tenants (S. 398, Sen. Hayes). Current law allows a tenant to be ejected from his premises for nonpayment of rent, violation of the terms of a lease or because his term of tenancy or occupation as ended. This bill requires that when a constable or deputy sheriff presents to the tenant a copy of the writ of ejectment, the writ must give the occupants 24 hours to vacate voluntarily, after which time the ejectment may be carried out by force.

If, when the officer brings the writ to the premises, the premises appear to be occupied but the occupant does not respond to the officer, then the officer must leave a copy of the writ taped or stapled at each corner and attached at the top of either the front or back door, or in the most conspicuous place. 24 hours following the posting of the writ, if the occupants have not voluntarily vacated the premises, then the deputy sheriff (but not a constable) may then enter the premises by force, using the least destructible means possible, to carry out the ejectment.

Empowering of County Grand Juries to Investigate Crimes Involving Dangerous Drugs, Public Corruption, Election Laws and Other Offenses (S. 787, Sen. Stilwell). This bill provides for the empowering of county grand juries to investigate crimes involving controlled substances; white collar crimes or nonviolent crimes by corporations or individuals; public corruption; election laws; and environmental laws. Under these provisions,

Legislative Update, March 15, 1994

the solicitor may petition to the chief administrative judge of the judicial circuit for an order empowering a county grand jury to investigate these offenses. The petition must allege the type of offenses to be inquired into and specify that the public interest is served by the empowerment. The chief administrative judge (known as the "empowering judge" under these provisions), after consideration of the petition, may order the empowerment of the county grand jury in accordance with the petition and must preside over that county grand jury during his tenure as chief administrative judge. The presiding judge may discharge a county grand jury empowered under these provisions prior to the end of its original term or extension upon a determination that its business has been completed or upon the request of the solicitor.

The bill lists conditions under which the presiding judge may the county grand jury's investigation and provides that the solicitor, in serving as legal advisor to the empowered county grand jury, must examine witnesses, present evidence and draft indictments and reports upon the direction of the empowered grand jury. The solicitor also may request the clerk to issue subpoenas or subpoenas duces tecum to compel individuals or materials to be brought from anywhere in this State to the empowered grand jury. Any person violating a subpoena or subpoena duces issued pursuant to these provisions, or who fails to answer fully all questions put to him before proceedings of the empowered county grand jury where the response is not privileged or otherwise protected by law may be punished by the presiding judge for contempt. The clerk also may issue subpoenas and subpoenas duces tecum to compel individuals and materials to be brought from anywhere in this State to the trial of any indictment returned by a county grand jury or the trial of a civil forfeiture action arising out of an investigation conducted by a grand jury empowered under these provisions.

The bill also requires a court reported to record all proceedings of the empowered county grand jury except when it is deliberating or voting. However, an unintentional failure of any recording to reproduce all or any portion of the testimony or proceedings does not affect the validity of the prosecution.

If a person seeks to be excused from testifying before or producing materials for the empowered county grand jury on grounds of incrimination or that such activity would subject him to forfeiture, and is directed by the presiding judge to give the testimony/materials, he must comply with the judge's order but must not thereafter be prosecuted or subjected to a penalty or forfeiture on account of anything pursuant to which he may testify or produce evidence. Additionally, no testimony so given or evidence produced may be received against him in any criminal investigation or criminal proceeding. However, the individual would not be exempt from prosecution for perjury committed while producing this testimony.

Legislative Update, March 15, 1994

The bill prohibits the solicitor from granting immunity to anyone testifying before the empowered grand jury unless immunity is first approved in writing by the attorney general and also provides that any additional expenses caused by empowering of the county grand jury under these provisions which would not normally be paid for out of county funds must be paid for out of the solicitor's existing budget.

Judges Issuing Search Warrants Based Upon Affidavits Supplemented by Oral Testimony Must Make Notes and Keep Records of that Testimony (S. 1034, Sen. Bryan). This bill requires a judge who issues a search warrant based upon an affidavit supplemented by sworn oral testimony to make contemporaneous written notes of the supplemental oral testimony and keep those notes as part of the record.

Notices of Acceptance by South Carolina of Land Relinquished by the United States Must Be Maintained by Budget and Control Board (S. 1043, Sen. Courson). This bill deletes a provision requiring the Secretary of State to maintain a file of notices of acceptance by South Carolina of land relinquished by the federal government and instead requires these notices to be maintained by the State Budget and Control Board.

Redevelopment Authorities (S. 1196, Sen. Rankin). This bill allows for the establishment of redevelopment authorities to oversee the disposal of federal property (i.e., military installations) that has been or will be turned over to the State or which has been designated as surplus property by the federal government and is to be disposed of by the State.

Under these provisions, the governor may designate one or more redevelopment authorities. No more than one authority may be created with jurisdiction over a single federal military installation. If more than one military installation is subject to closure within a county, or if an installation is located in more than one county, then only one redevelopment authority may be created for that county, multi-county area or metropolitan statistical area. If an authority is designated, then it must be the sole representative of the State for negotiations with the appropriate federal authority for reuse and disposal of property. Any entity established by the governor's executive order relating to or concerned with the effects of the closure of federal military installations must cease existence by March 1, 1995.

The governor would be responsible for appointing members of redevelopment authorities, upon nominations made by legislative delegations and local governing officials. The size of the authority varies according to whether the federal property subject to disposal is contained within one county, within more than one county, or within a federally-defined Metropolitan Statistical Area. No member of an authority may be an elected official, nor may a member hold another office of honor or profit of this state or run for public office while serving on the authority. Members of the authority would serve staggered 4-year terms and could be removed by the governor for misconduct, incompetency and other

Legislative Update, March 15, 1994

reasons. No member is personally liable for losses unless the losses are occasioned by the wilful misconduct of the member. The authority may employ or contract for technical experts and other employees on a technical basis as may be required. No member of an authority may acquire any interest in a redevelopment project or in any property included or planned to be included in a redevelopment area. Nor may a member or employee have any interest in a contract or proposed contract for materials or services to be used by the authority or in any contract with a developer or redeveloper relating to a redevelopment project. The bill lists circumstances under which a member of employee may acquire residential property in a redevelopment area from anyone other than the authority after the area redevelopment plan is adopted.

The bill lists the powers and duties of an authority. Among other powers and duties, an authority may make regulations; prepare and recommend redevelopment plans and undertake and carry out redevelopment projects within its area of operation; borrow money; make surveys, studies and plans necessary to carry out these provisions; and to perform redevelopment projects undertakings and activities. The bill also lists activities a public body may undertake for the purpose of aiding and cooperating with the planning, undertaking or carrying out of redevelopment projects. The bill also prohibits the State, any political subdivision, any public or quasi-public entity or affiliated entity whose board is appointed pursuant to an act of the General Assembly, or any non-profit public or non-profit private corporation chartered for the purpose of furthering economic development from making a profit on the sale of real estate to a redevelopment authority created pursuant to this act. Additionally, no monies from the authority's assets developed through the sale, lease or fees generated from the profits may be transferred to any government entity above, beyond or outside of the authority itself.

A redevelopment authority may dissolve itself by a two-thirds majority of the authority's membership, provided no property remains for redevelopment or if the authority decides to transfer remaining redevelopment authorities to another public body or successor entity created by statute. The bill provides for the disposition of property once the authority has voted to dissolve.

Labor, Commerce and Industry

Requirements for Sampling of Distilled Spirits in Retail Alcoholic Liquor Stores (H. 4896, Rep. G. Bailey). This bill authorizes the sampling of wines, cordials and other distilled spirits sold in a retail alcoholic liquor store. In order to conduct sampling of these items, the following conditions are to be met: (1) no sample may be offered from more than 2 open bottles at a time; (2) no sample may be more than one-half ounce for each brand of distilled spirit; (3) no person may be served more than 1 sample for each product; (4) no sample may be offered without the presence of a representative of the sample producer on the store premises; (5) no

Legislative Update, March 15, 1994

sampling may be offered for longer than 4 hours; (6) a certified letter detailing the date and hours of the sampling must be mailed to the Department of Revenue and Taxation at least 5 business days before the sampling; and (7) samples may not be served or offered to anyone who is intoxicated or under age 21, nor may these persons loiter on the store premises.

Employment Bill of Rights for Persons with Disabilities (S. 292, Sen. Patterson). This bill prohibits a "covered entity" (employer, employment agency, labor organization, or joint labor-management committee) from discriminating against a qualified individual with a disability because of his disability in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment. The bill defines a "qualified individual with a disability" as a person with a "disability" (physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of this impairment, or being regarded as having this impairment) who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. As pertains to this act, "disability" does not include homosexuality or other sexual behavior disorders, compulsive gambling or illegal use of drugs.

A covered entity may not conduct a pre-employment medical examination and may not make inquiries of an applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability. The covered entity, however, may make pre-employment inquiries into the ability of an applicant to perform job-related functions; require a medical examination after an offer of employment has been made to a job applicant and before commencement of the employment duties of the applicant; or condition an offer of employment on the results of the examination if all entering employees are subjected to the examination regardless of disability. A covered entity may require a medical examination and make inquiries of an employee as to whether he is an individual with a disability or as to the nature or severity of the disability only if the examination or inquiry is shown to be job-related and consistent with business necessity.

The bill also lists provisions a covered entity may take as pertains to use of drugs or alcohol in the workplace. As examples, a covered entity may prohibit the illegal use of drugs and the use of alcohol at the work place by all employees and may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the entity holds other employees. It is a defense to a charge of discrimination under these provisions that an alleged application of qualification standards, tests or selection criteria that screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity and performance and cannot be

Legislative Update, March 15, 1994

accomplished by "reasonable accommodation" (e.g., making existing facilities used by employees readily accessible to individuals with disabilities).

These provisions do not prohibit a religious corporation, association, educational institution or society from giving preference in employment to an individual of a particular religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Jurisdiction over complaints of discrimination in violation of these provisions is vested with the State Human Affairs Commission, and complaints brought under these provisions must be processed and investigated in accordance with the South Carolina Human Affairs Law. Additionally, discrimination under these provisions is an unlawful employment practice as prescribed in the Human Affairs Law.

Labeling and Tax Exemptions for Manufactured Homes (S. 1155, Sen. Martin). This is the companion bill to H. 4552 (currently pending on the House Uncontested Calendar), which requires manufactured homes meeting or exceeding certain energy efficiency standards to be so labeled and applies a \$300 sales tax cap on manufactured homes in which the total heat loss does not exceed the amount specified in the bill.

Medical, Military, Public and Municipal Affairs

Training Programs for Operators of Certain Tanning Equipment Limited to 4 Hours (H. 4897, Rep. Fair). Current law grants to the Department of Health and Environmental Control the power to control and regulate radiation sources, including the regulation of operators who apply ionizing or nonionizing radiation to humans. This bill would limit to 4 the maximum number of hours of operator training required for operators of commercial tanning equipment which tans the skin of the human body through use of ultraviolet radiation. The bill also delays until July 1, 1995 the effective date of certain regulations of the Department of Health and Environmental Control pertaining to operators of tanning equipment.

Person Placed Under Arrest is Responsible for Costs of His Medical Care (S. 1021, Sen. Washington). Under these provisions, the responsibility for paying the expenses of medical care, treatment, hospitalization and transportation for any person ill, wounded or otherwise injured at the time of arrest falls on the arrested person. Anyone providing services to an arrested person must seek reimbursement for expenses incurred in providing those services first from the arrested person's insurance or health care resources. If the arrested person does not have those resources, then the provider is to seek reimbursement, in descending order, from the arrested person himself; from a financial settlement for the medical care or other services payable or accruing to the arrested person; from the state's general fund; or, lastly, from the general fund of the county where the person was arrested (if the arrest

Legislative Update, March 15, 1994

was for violation of state law or a county ordinance) or from the municipal general fund (if the arrest was for violation of a municipal ordinance). The bill also provides that the responsibility of the state general fund or a county or municipal general fund for payment of these medical costs continues until the arrested person is released from the arresting agency's custody.

Reauthorization of State Board of Occupational Therapy (S. 1115, Sen. Drummond). This bill reauthorizes the South Carolina Board of Occupational Therapy for 6 years and requires the board to prescribe fees for verification fees and for roster and mailing lists. The bill also requires an educational program in occupational therapy, currently required of applicants seeking an occupational therapist or therapy assistant license, to be either nationally or regionally accredited.

Reauthorization of State Board of Examiners in Optometry (S. 1119, Sen. Drummond). This bill reauthorizes the South Carolina Board of Examiners in Optometry for 6 years and revises the qualifications for registration as an optometrist so as to require optometrists to be therapeutically certified. However, an optometrist already holding a valid registration or who is diagnostically certified is not required to be therapeutically certified as a condition of maintaining the registration or diagnostic certification or obtaining renewal. Additionally, pharmaceutical agent examinations taken by optometrists seeking diagnostic certification must be approved, instead of administered, by the Board, while the Ocular Disease examination given to optometrists seeking therapeutic certification must be approved, instead of administered, by the National Board of Examiners in Optometry.

The bill also permits notices of board hearings pertaining to complaints filed against optometrists to be sent to the accused optometrist by certified, instead of registered, mail, and provides that the State's Optometry Act is not to be construed as prescribing or restricting the location of optometrists' offices. However, the Board may regulate optometrists' offices to the extent that the regulations provide for adequate and appropriate office facilities for the practice of optometry; the proper handling of patient records; and the appropriate sanitation for office facilities.

Reauthorization of State Board of Psychologists (S. 1118, Sen. Drummond). This bill, similar to H. 4643, reauthorizes the State Board of Examiners in Psychology for 6 years and revises provisions governing the licensing and discipline of psychologists. There are two differences between S. 1118 and H. 4643, as follows: (1) Unlike H. 4643, S. 1118 deletes a provision requiring the Board to file a copy of the Psychologists' Code of Ethics with the Secretary of State, and (2) S. 1118 requires the Department of Labor, Licensing and Regulation to represent the Board, if so requested, in connection with legal proceedings undertaken pursuant to these provisions (H. 4643 requires the Attorney General to represent the Board in connection with those proceedings).

Legislative Update, March 15, 1994

Ways and Means

No State Funds for State Agencies or Local Governmental Entities Which Deny Exercise of Voluntary Prayer (H. 4883, Rep. Davenport). This bill prohibits the appropriation of funds in the State's General Appropriation Act to any state agency, board, committee or commission, or to any local government entity or political subdivision of the State which has a policy of denying or which in effect prevents voluntary participation in constitutionally protected prayer by an employee, student or client of the state entity (agency, board, etc.), local government entity or political subdivision of the State.

Infectious Waste Program Fund (H. 4884, Rep. McTeer). This bill requires the Department of Health and Environmental Control (DHEC) to establish an Infectious Waste Program Fund to ensure the availability of funds to carry out DHEC's responsibilities under the Infectious Waste Management Act. The fund must be financed from fees imposed on the treatment of infectious waste in South Carolina, with an amount equal to \$8 per ton from those treatment fees deposited into the Infectious Waste Program Fund. The bill also eliminates the treatment fee differential between in-state and out-of-state generated infectious waste, so that the fee imposed on treatment of infectious waste in South Carolina, regardless of where generated, is \$25 a ton. Additionally, after the Infectious Waste Program Fund is funded, any remaining infectious waste treatment fees must be deposited in the State's Infectious Waste Contingency Fund.

Employees of Municipalities Eligible for State Health and Dental Coverage (H. 4893, Rep. Rogers). Under these provisions, employees and retirees, and their eligible dependents, of municipalities would be eligible for coverage under the state's health and dental insurance plans.

Income Withholding Requirements (H. 4903, Rep. Corning). This bill revises provisions governing income tax withholding for persons, firms, corporations and other entities which do business or have income in this state or which have employees earning income within the state.

Under current law, a firm, etc. must withhold 7 percent of the total amount of payments of \$800 or more yearly made to a nonresident of rentals or royalties for the use or privilege of using property in South Carolina, except that the withholding rate is 6 percent if the payments are made to a corporation. This bill changes the payment threshold so that withholding is required only if these payments are \$1,200 or more yearly and lowers to 5 percent the withholding rate required if the rental or royalty payments are made to a corporation. Additionally, firms, etc. required to withhold for these royalty/rental payments or for contracts of \$10,000 or more with nonresident taxpayers performing temporary services within South Carolina may obtain withholding exemption by registering with the Secretary of State of the Department of Revenue and Taxation, provided that by this registration the firm, etc. has agreed to be subject to the jurisdiction

Legislative Update, March 15, 1994

of the Department and the state's courts to determine the firm's South Carolina tax liability (estimated taxes and related penalties/interest). Registration with the Secretary of State or the Department is not an admission of tax liability. The bill allows the Department to revoke the exemption granted by this registration if it determines that the nonresident taxpayer is not cooperating with the Department in the determination of the nonresident taxpayer's correct South Carolina tax liability. Additionally, the Department may partially or totally exempt classes of transactions from these provisions and may exempt the portion of any transaction which is not taxable in this State.

Employees of Public Service Districts Eligible for State Health and Dental Coverage (S. 847, Sen. Passailaigue). If this bill is adopted, employees and retirees and their eligible dependents of public service districts which provide, singly or in combination, gas, water, sewer, fire or sanitation service(s), would be eligible for coverage under the state's health and dental insurance plans.

County Councils on Aging Eligible for State Health and Dental Insurance Coverage (S. 928, Sen. Giese). Under these provisions, county councils on aging or other governmental agencies providing aging services funded by the Office of the Governor, Division on Aging would be eligible for state health and dental insurance coverage.

Airline Hubs (S. 1077, Sen. Patterson). This bill expands the definition of an "air carrier hub terminal facility," as pertains to state funding of those facilities, to include a terminal facility from which an air carrier operates or will operate at least 5 common carrier departing cargo and air freight flights a day for at least 5 days each week. The bill also prohibits any economic development incentive package involving loans guaranteed by the state or using federal funds allocated to the State to provide such guarantees from being offered to an economic development prospect unless the General Assembly approves the commitment by bill or joint resolution.

Without Reference

Board of Chiropractic Examiners May Issue Volunteer Licenses for Chiropractic Care of the Needy and Indigent (S. 1222, Senate Labor, Commerce and Industry Committee). This bill authorizes the State Board of Chiropractic Examiners to issue a special volunteer license for chiropractors who wish to devote their expertise exclusively to providing chiropractic care to South Carolina's needy and indigent. The Board would waive all application fees, examination fees, and annual registration fees for chiropractors issued this volunteer license and would promulgate regulations outlining the qualifications for the issuance of this license.

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